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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/560,128	12/09/2005	Takeshi Oka	450100-05109	2855

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EXAMINER	
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ART UNIT	**PAPER NUMBER**
2161	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/560,128	OKA ET AL.	
	Examiner	Art Unit	
	Mohammad N. Rahman	2161	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *09 December 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-10* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-10* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *12/09/2005*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

Detailed Action

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims to computer-related inventions that are clearly nonstatutory fall into the same general categories as nonstatutory claims in other arts, namely natural phenomena such as magnetism, and abstract ideas or laws of nature which constitute "descriptive material. "Abstract ideas, Warmerdam, 33 F.3d at 1360, 31 USPQ2d at 1759, or the mere manipulation of abstract ideas, Schrader, 22 F.3d at 292-93, 30 USPQ2d at 1457 58, are not patentable. Descriptive material can be characterized as either "functional descriptive material" or "nonfunctional descriptive material." In this context, "functional descriptive material" consists of data structures and computer programs which impart functionality when employed as a computer component. (The definition of "data structure" is "a physical or logical relationship among data elements, designed to support specific data manipulation functions." The New IEEE Standard Dictionary of Electrical and Electronics Terms 308 (5th ed. 1993).) "Nonfunctional descriptive material" includes but. is not limited to music, literary works and a compilation or mere arrangement of data (See MPE P se ct ion 2 106, IV, B, 1)

2. **Claim 9** is rejected under 35 USC 101 because the claimed invention is directed to non-statutory subject matter.

Further, Claim 9 is computer program per se and not statutory. The claims lack the necessary physical articles or objects to constitute a machine or a manufacture within the meaning of 35 USC 101. They are clearly not a series of steps or acts to be a process nor are they a combination of chemical compounds to be a composition of matter. As such, they fail to fall within a statutory category. They are also appears to be non-functional descriptive matter.

Descriptive material can be characterized as either "functional descriptive material" or "nonfunctional descriptive material." Both types of "descriptive material" are nonstatu-

tory when claimed as descriptive material *per se*, 33 F.3d at 1360, 31 USPQ2d at 1759. When functional descriptive material is recorded on some computer-readable medium, it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized. Compare *In re Lowry*, 32 F.3d 1579, 1583-84, 32 USPQ2d 1031, 1035 (Fed. Cir. 1994)

Merely claiming nonfunctional descriptive material, i.e., abstract ideas, stored on a computer-readable medium, in a computer, or on an electromagnetic carrier signal, does not make it statutory. See Diehr, 450 U.S. at 185-86, 209 USPQ at 8 (noting that the claims for an algorithm in *Benson* were unpatentable as abstract ideas because "[t]he sole practical application of the algorithm was in connection with the programming of a general purpose computer.").

Claim Rejection – 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. **Claims 1-10** are rejected under 35 U.S.C. 102 (b) as being anticipated by Sako et al. (U.S. Application Patent No. 6,118,754), herein referred to as Sako.

As to claim 1, Sako teaches, a file generation apparatus for generating a file of first data to be recorded on a recording medium (see abstract), the file generation apparatus comprising:

- "first generation means for generating second data to be arranged at the beginning of the file" at col.2 and lines 65-67 and col.3 and lines 1-14;

(Sako teaches, "a sector size of first data is set to A and a sector size of second data is set to B", thus in a specific arrangements of the data blocks, a file is generated which includes the second data.)

- "second generation means for generating third data to be arranged at the end of the file" at col.3 and lines 15-30; and

(Sako teaches, "means for reproducing the digital data; reproduction processing means for performing a digital demodulation and an error correction to the data of the block structure; means for dividing the data of the block structure from the reproduction processing means into sectors and for outputting the data of a sector structure", since in a specific arrangements of the data blocks, a file is generated which includes the selected data.)

- "third generation means for generating fourth data which allows the data amount of the first, second, or third data to be an integral multiple of a unit of reading or

writing to the recording medium by adding the fourth data to the first data, the second data, or the third data" at col.3 and lines 31-42 .

(Sako teaches, "two formats in which sector sizes are different and a ratio of the sector sizes is not an integer ratio can be united to a block structure having the same size", clearly interprets that in a process for reading or writing different blocks of data to the recording medium, the data is arranged in an integral manner.)

Note that claims 8 and 9 are the method and program claims respectively, which recite the same corresponding limitations as set forth in claim 1 above, thus the claims are rejected accordingly.

As to claim 2, Sako teaches, "the file generation apparatus according to claim 1, wherein the first generation means generates the second data, i.e., a header of the file" at col.10 and lines 14-17.

As to claim 3, Sako teaches, "the file generation apparatus according to claim 1, wherein the first generation means further comprises format conversion means for converting the first data into a KLV (Key, Length, Value) structure" at col.7 and lines 5-16; and

- wherein the first generation means generates the second data composed of the file's header, and a key and a length arranged between the header and the first data" at col.7, lines 5-16 and at col.7, lines 5-16.

As to claim 4, Sako teaches, "the file generation apparatus according to claim 1, wherein the third generation means generates the fourth data by making an addition to each of N-1 portions of the first data toward the beginning out of the first data divided into N portions, where N is an integer, so that the data amount of each of the first data divided into N-1 portions becomes an integral multiple of a physical unit area of the recording medium and the overall data amount of the first data becomes an integral multiple of the unit of reading and writing on the recording medium" at col.7, lines 55-67.

As to claim 5, Sako teaches, "the file generation apparatus according to claim 1, wherein the third generation means generates the fourth data for the first data divided into units corresponding to specified reproduction times with video data and audio data for a plurality of channels multiplexed in accordance with the divided units so that the data amount for each of divided units of the first data corresponds to an integral multiple of the unit of reading and writing on the recording medium" at col.14, lines 22-33.

As to claim 6, Sako teaches, "the file generation apparatus according to claim 5, wherein the third generation means generates the fourth data so that the data amount totaling partition data for separating divided portions of the first data from each other, metadata contained in each of divided portions of the first data, and the video data

corresponds to an integral multiple of the unit of reading and writing on the recording medium" at col.14, lines 22-33 and at col.14, lines 34-45.

As to claim 7, Sako teaches, "the file generation apparatus according to claim 5, wherein the third generation means generates the fourth data so that the data amount of each of divided portions of the audio data contained in each of divided portions of the first data corresponds to an integral fraction of the unit of reading and writing on the recording medium and the overall data amount of the audio data corresponds to an integral multiple of the unit of reading and writing on the recording medium" at col.14, lines 22-33 and col.14, lines 34-45.

As to claim 10, Sako teaches, "a recording medium to record a file of first data, wherein first additional data is added to record the first data whose data amount corresponds to an integral multiple of a unit of reading or writing to the recording medium so that a boundary of the first data matches a boundary of the unit" at col. 6, lines 1-5 and col.14, lines 34-45;

(Sako teaches, "The additional sync S1 of 32 channel bits is added to the latter half modulated data symbols", thus additional data is added to whose data amount corresponds to an integral multiple of a unit of reading or writing to the recording medium.)

- "wherein second data is arranged at the beginning of the file and is attached with second additional data to have the data amount corresponding to an integral

multiple of the unit so that a boundary of the second data matches a boundary of the unit" at col.2, lines 65-67 and col.3, lines 1-14 and col.14, lines 34-45; and

(Sako teaches, "a sector size of first data is set to A and a sector size of second data is set to B", thus in a specific arrangements of the data blocks, a file is generated which includes the second data. Furthermore, the additional data is added to whose data amount corresponds to an integral multiple of a unit of reading or writing to the recording medium.)

- "wherein third data is arranged at the end of the file and is attached with third additional data to have the data amount corresponding to an integral multiple of the unit so that a boundary of the third data matches a boundary of the unit" at col.2, lines 65-67 and col.3, lines 1-14 and col.14, lines 34-45.

(Sako teaches, "a sector size of first data is set to A and a sector size of second data is set to B", thus in a specific arrangements of the data blocks, a file is generated which includes the third data. Furthermore, the additional data is added to whose data amount corresponds to an integral multiple of the matching units.)

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Sim et al. (US Patent No. 7,272,613 B2) discloses a method and system for managing distributed content and related metadata.

Hoshino et al. (US Patent No. 5,539,723) discloses a Method, apparatus, and medium for recording information in data sections having number of bytes which increase in circumference of tracks on medium.

Matsui et al. (US Patent No. 5,166,921) discloses an Optical disk carrying tracking information in multiple formats and apparatus for analyzing same.

Kumar et al. (US Patent No. 6,269,080) discloses a method of multicast file distribution and synchronization.

Contact Information

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mohammad N. Rahman whose telephone number is 571-270-1631. The examiner can normally be reached on 7:30am - 5:00 pm, Mon - Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mofiz Apu M can be reached on 572-272-4080. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

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SUPERVISORY PATENT EXAMINER